

REQUEST FOR COUNCIL ACTION

MEETING
DATE: 7/21/03

21

AGENDA SECTION:
Consent Agenda

ORIGINATING DEPT:
City Attorney's Office

ITEM NO.

D-5

ITEM DESCRIPTION: Approval of settlement agreement and mutual releases with Midstate Services, Inc. for the 41st Street NW stormwater pond project (J-2467).

PREPARED BY:
David M Goslee

Staff has been involved in resolving a dispute with Midstate Services, Inc., regarding the construction of City Project SW-M007, J-2467, Regional Storm Water Pond. This project created the series of stormwater ponds south of 41st Street NW, north of IBM and west of Home Depot. Midstates ultimately offered a claim for \$308,000 above and beyond the payments it has received to date.

The City and Midstates entered into and completed mediation on July 16, 2003, and staff offers for your approval a settlement that calls for the City to make a final payment to Midstates in the amount of \$115,219.30. The settlement also releases both parties from any other responsibilities under this contract. Midstates' was the low bidder for this construction project and a contract in the amount of \$386,981.50 was awarded early in 2002. To date Midstates has been paid \$281,380.70 with the remaining balance withheld for retainage, liquidated damages for delay, and differences in quantities from those estimated in the bidding documents. Payment of the negotiated amount will make the total contract amount \$396,600.00 or just less than \$10,000 more than the original contract amount.

COUNCIL ACTION REQUESTED: Approve the settlement and mutual release agreement and direct the Mayor and City Clerk to execute the same.

COUNCIL ACTION: Motion by: _____ Second by: _____ to: _____

